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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/892,847 | 06/28/2001 | Masatoshi Ozawa | P20726 | 3090 |

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| EXAMINER |
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EL HADY, NABIL M

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| ART UNIT | PAPER NUMBER |
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2152

DATE MAILED: 02/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|---|--|
| Office Action Summary | Application No. 09/892,847 | Applicant(s) OZAWA, MASATOSHI | |
| | Examiner Nabil M. El-Hady | Art Unit 2152 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1--20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>1/6/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

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1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 1/10/2006 has been entered.

2. Claims 1-20 are pending in this application. Claims 1-9 are cancelled. Claims 10-20 are presented for examination.

3. The information disclosure statement filed 1/10/2006 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because it references different application (09/807,427) for different applicant. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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5. Claims 10-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The following words or phrases are not clearly understood rendering the claims vague or indefinite:

a) "first terminal being able to access", and "second terminal being unable to access", claims 10, 17, and 19. It is unclear what characteristics of the first or the second terminal are contributing to making each being able or unable to access the home page. Being able or unable to access, which is repeated several times in each claim, cannot clearly differentiate between the first and second terminals

b) "said second terminal apparatus is unrelated to said first terminal apparatus", claims 10, 17, and 19. It is unclear what is the meaning of "unrelated", does it mean separate components or one entity, remote entities, two components with no direct communication, with wireless communication, with remote communication, etc.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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7. Claims 10-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Teiji (JP 11-189528) in view of Ichiro et al. (JP 2000-032429), hereinafter "Ichiro" or Seki (JP 11-136365).

8. As to claim 17, Teiji discloses the invention substantially as claimed including a server apparatus selectively connected to at least one of a first terminal apparatus and a second terminal apparatus, said first terminal apparatus able to access a home page provided by the server ([0036] translation, screen for a user) , the second terminal apparatus unable to access the home page (content reception installation 18 with the FAX 18A or CP 18B), comprising a receiver that receives a request via the home page, from the first terminal apparatus, for predetermined media data to be transferred to the second terminal apparatus ([0036] translation, a screen for a user to specify an apparatus for receiving data content and to input its number); said controller controlling the transfer of the requested predetermined media data to the second terminal apparatus (abstract, lines 9-12).

9. Teiji does not disclose determining whether the second terminal apparatus has sufficient storage space to store the requested predetermined media data in order to transfer the requested data. However, determination of sufficient space in a receiver to store data amount before transferring or downloading it is well known in the art. Ichiro, for example, discloses such concept of determining whether the second terminal apparatus has sufficient storage space to store the requested predetermined media data in order to transfer the requested data (abstract, lines 1-3). Seki, also discloses such concept of determining whether the second terminal apparatus has sufficient storage space to store the requested predetermined media data in order to transfer the requested data ([0044] translation). It would have been obvious to one

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skilled in the art at the time of the invention to combine the teachings of Teiji with the teachings of Ichiro or the teachings of Seki in order to insure error free transfer and download of the requested media to the second terminal.

10. As to claims 1 and 19, the claims are rejected for the same reasons as claim 17 above. In addition, Teiji discloses the request including information regarding the second terminal (abstract, line 8; and [0036] translation, a screen for a user to specify an apparatus for receiving data content). Ichiro also discloses transmitting a notification to the second terminal apparatus, the notification including a value representing a size of the predetermined media data, based on the received request; receive a response to the notification from the second terminal apparatus unable to access the home page (abstract, lines 1-6).

11. As to claim 11, Teiji, Ichiro, or Seki does not explicitly disclose the predetermined media data is divided into a plurality of predetermined data blocks, and transmitting each of the plurality of the predetermined data blocks to the second terminal apparatus. However, it would have been obvious to one skilled in the art at the time of the invention that as part of data transfer protocols, a predetermined media data would be divided into a plurality of predetermined data blocks, where each of the plurality of the predetermined data blocks is being transmitted, in order to keep track of blocks transmitted, errors involved in transition, and if any block need to be retransmitted (see, for example, Toshimasa, JP 11-341044).

12. As to claim 12, Teiji, Ichiro, or Seki does not explicitly disclose transmitting a confirm notification to the second terminal apparatus after transmission of each of the plurality of the predetermined data blocks, the confirm notification being utilized to confirm that the second

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terminal apparatus received the transmitted data block. Again, it would have been obvious to one skilled in the art at the time of the invention that as part of data transfer protocols, a confirm notification to the second terminal apparatus after transmission of each of the plurality of the predetermined data blocks, the confirm notification being utilized to confirm that the second terminal apparatus received the transmitted data block (see, for example, Shinji et al., JP 02-260055, abstract, SOLUTION).

13. As to claim 13, Ichiro discloses the controller executes an error process when the controller does not receive a response to the transmitted confirm notification (abstract, SOLUTION).

14. As to claim 14, Ichiro discloses storing a block number indicating a transmitted data block when the controller does not receive the response to the transmitted confirm notification, the controller executing the error process by re-transmitting the block, corresponding to the stored block number, to the second terminal apparatus (Ichiro, abstract, SOLUTION). It is also obvious that such procedure is part of data transfer protocol (see for example, Toshimasa, abstract, and [0057] translation).

15. As to claim 15, Seki discloses the request from the first terminal apparatus includes a time value, the controller transmitting the predetermined media data to the second terminal apparatus a predetermined time related to the time value (abstract, distributes the contents of information desired by a user with a timing desired by the user).

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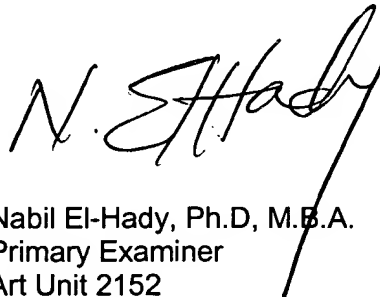
16. As to claims 16, 18, and 20, Teiji discloses the predetermined media data comprises music data ([0036] translation, data content includes voice data).

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nabil M. El-Hady whose telephone number is (571) 272-3963. The examiner can normally be reached on 9:00 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on (571) 272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

January 16, 2006


Nabil El-Hady, Ph.D, M.B.A.
Primary Examiner
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